

**Nassau County Comptroller's**

**Audit Advisory Committee**

**2009 Annual Report**

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## **Background and Purpose:**

The Nassau County Comptroller's Audit Advisory Committee (Committee) was established by Comptroller Howard S. Weitzman in 2003 to garner outside advice and oversight for the County's financial and auditing operations. Comprised of financial experts and business leaders, this Committee is one of a handful that exists to assist counties in New York State. The Committee consists of five independent members, plus designees from the County's Administration and the County Comptroller.

The Committee assists in monitoring Nassau County's finances and oversees the independent audit of the County's financial statements. The Committee provides advice to the Comptroller in connection with his selection of the County's independent auditor. The Committee examines the appropriateness of the external audit's scope, reviews audit results, and assesses the adequacy of internal controls by both the administration and the auditors. In addition, the Committee reviews and comments on the Comptroller's internal audit plan, audits prepared pursuant to that plan, agency responses, and County control directives and procedures. When appropriate, the Committee periodically conducts special projects and provides advice and consultation on other matters affecting the County's finances.

The Committee's Operating Guidelines, which were updated in 2009 to include discussion of the Committee's non-audit related projects, are attached to this report as an exhibit.

A link on the Comptroller's web site describes the Committee, its role and members, and the reports issued by the Committee.

## **Committee Composition:**

*The Committee is composed of a minimum of seven members:*

- County Executive or designee
- County Comptroller or designee
- At least five experienced County community/business/financial leaders selected by the Comptroller who are independent of the County and local governments. One of these independent members is chosen to serve as the chairperson.

*Committee members as of December 31, 2009:*

**Louis C. Grassi:** Managing Partner of Grassi & Co., a full service tax, accounting, and business advisory firm. Mr. Grassi is a member of the American Institute of Certified Public Accountants (AICPA) and is on the Board of Trustees of The New York Institute of Technology. Mr. Grassi chaired the External Audit Firm RFP Subcommittee.

**John H. Howell:** Certified Public Accountant and Retired Tax Partner of Ernst & Young; Mr. Howell was also a Financial Advisor at American Express Financial Advisors (now called Ameriprise Financials).

**Aline Khatchadourian:** Nassau County's Deputy Comptroller for Audit & Special Projects (serving as designee of the County Comptroller).

**Lee E. Launer:** Retired partner of PriceWaterhouseCoopers LLP. Mr. Launer is a Fellow of the Society of Actuaries, a Member of the American Academy of Actuaries and a Fellow of the Conference of Consulting Actuaries. Mr. Launer served on the Nassau Health Care Corporation Subcommittee.

**John B. Schwartzman:** Adjunct Associate Professor of Finance at Hofstra University and President of the Village of Sea Cliff Library Board of Trustees. A former Chief Investment Officer for Citicorp Investment Services, he was a compliance supervisory principal responsible for approving investment products, sales policies, and advertising.

**Thomas W. Stokes:** Deputy County Executive for Management, Budget and Finance (serving as designee of the County Executive).

**Robert A. Wild:** Chairman and Managing Partner of Garfunkel, Wild & Travis, P.C., a law firm specializing in healthcare. Mr. Wild was the Chairman of the Committee and also served on the Nassau Health Care Corporation Subcommittee.

The County Comptroller and a Director of Deloitte & Touche, the County's current independent auditors, attend every meeting. Service on the Committee is pro-bono. County officials serving on the Committee do not receive compensation in addition to their regular salaries. Outside members of the Committee serve staggered terms to ensure continuity and stability.

## **The Year in Review:**

During its sixth full year, the Committee monitored the selection process for the County's outside auditors, reviewed the County's financial position and the impact of the national recession on the County. The Committee also discussed audit findings, the status of tax certiorari refund obligations, the outside auditors' reports and encouraged County officials to cooperate with the outside auditor in resolving issues raised by the auditors' Report to Management.

## **Summary of Issues Addressed by the Committee**

### ***County's Financial Position***

The national recession and its impact on the County's finances was a key issue for the Committee in 2009. Comptroller Weitzman and Deputy County Executive Tom Stokes briefed the Committee at every meeting concerning the dramatic plunge in sales tax revenues and the County's plans to revise its 2009 budget to reflect the reduced sales tax revenue.

In January, the Committee discussed the drop in 2008 fourth quarter sales tax revenue and the likely drop in 2009 sales tax receipts below the budgeted revenue. Comptroller Weitzman reviewed the State's process for reporting sales tax and noted that the County would not know the final 2008 receipts until the last adjustment check was received in April 2009. He stated that local economists were projecting a 3 – 6% drop in sales tax for 2009 over 2008 receipts. Deputy County Executive Stokes reviewed the changes the administration and Legislature had made to the 2009 budget after its adoption to reflect the declining economic outlook, and outlined the administration's proposal to effect additional changes in expense and revenue totaling approximately \$130 million.

At the March and July meetings, Comptroller Weitzman updated the Committee on the current year (2009) gap and the administration's progress in closing the gap. Potential gap closers included federal stimulus aid in the form of additional Medicaid reimbursement, labor concessions including a lag payroll and deferring pay increases, reducing headcount through voluntary attrition tied to a separation incentive, extension of sales tax to home heating fuel and State authorization for red light cameras and a cigarette tax.

The Comptroller recognized that the administration had moved quickly to close the gap. He also expressed concern that to the extent the savings would come from accelerated attrition from a retirement incentive, it would be difficult to manage the County's business with a significantly reduced staff and difficult to ensure that hiring would not creep back up over time. He also noted that savings based on a lag payroll are not recurring savings. Deputy County Executive Stokes discussed the County's efforts to obtain State approval to bond retirement incentive payments, authorize red light cameras and impose a cigarette tax. By the September Committee meeting, Mr. Stokes reported that the State had provided the necessary authority for bonding and the red light cameras and the County Legislature had authorized imposing a sales tax on home heating fuel. Sales tax revenue in 2009 was projected to be 6% below 2008 receipts, including the revenue from the home heating tax. The Comptroller's Office staff and the administration agreed that great strides had been taken in reducing police overtime through better management and increased civilianization, but the Comptroller's Office projected that overtime would still be higher than the administration projected. The Comptroller's Mid-Year Report projected that the

administration's actions had narrowed the 2009 gap, but that there were remaining areas of risk and that more actions would probably need to be taken before year end.

The Committee also discussed the proposed 2010 budget. The Comptroller's Office's view was that the budget would have been more conservative if it had based sales tax revenue on a projection that the County would finish 2009 with sales tax 7% below 2008 receipts, taking into account the projected \$18 million in new revenue from extending the sales tax to home heating fuel. The budget also included \$16 million in new revenue from a cigarette tax, which requires State authorization and the authorization had not yet been obtained. The Comptroller's Report on the Proposed 2010 budget, distributed to the Committee, noted significant risks: the 2009 sales tax results, which would be the base for budgeted 2010 sales tax revenues and the cigarette tax, which required State authorization.

### ***Real Property Tax Refunds***

Real property tax refunds and liability remained an area of risk. For 2009, additional refund expense would not present a budgetary risk since the administration planned to use long-term borrowing to pay property tax refunds over the budgeted \$50 million expense. The Comptroller continued to express his concern about borrowing for this purpose. The Comptroller's Office and Deloitte also emphasized the need to review the accuracy of the County's real estate tax refund liability in light of the continued high refund payments.

At the January meeting when Comptroller Weitzman discussed the difficulties with a model that predicted property tax refund liability at \$102 million as of the end of 2007 when real property tax refunds reached approximately \$99 million in 2008, Deputy County Executive Stokes acknowledged that problems existed. Mr. Stokes indicated that one problem with the past liability estimates had been the identification of active cases within the County Attorney's Office, which he planned to resolve. He also discussed the new software being implemented by the County to bring together relevant data from many departments – County Attorney, Assessment Review Commission (“ARC”), Assessment, and the Treasurer.

At member John Howell's request, an extended discussion of the property tax refund issue occurred at the September meeting where Robert Checca, IT Department Head, discussed the new software application “ADAPT.” ADAPT had gone live in the Assessment Department and was going live in the Treasurer's Office in October. ARC and County Attorney were not yet on board. The process showed the administration had not yet completed the multi-department unified data format that Mr. Stokes had described in January.

Mr. Stokes discussed the review of the assessment process performed by the new assessor. He indicated that additional resources should be devoted to the assessment of commercial properties to improve the accuracy of those assessments, which generate the bulk of the refund liability. Mr. Stokes stated that he would focus on assessment issues after the 2010 budget was adopted and evaluate whether ARC's functions should be changed as the assessor had recommended. Mr. Stokes also discussed one change that had already been implemented: the assessor had agreed to take court decisions into account in setting assessments.

Issues with past liability estimates had been identified, primarily that the court decisions and settlements made in court cases had not been included in determining the County's potential exposure. This would be changed in the new liability estimate. Mr. Stokes also agreed with Committee members that the declining real estate market would likely increase refund exposure, even where under the law assessments were supposed to be evaluated as of an earlier date when the market was stronger.

### ***Long-Term Debt***

At the start of the year, Comptroller Weitzman identified as a risk the County's continued exposure to the ongoing fiscal crisis through the variable rate debt issued by NIFA. After the auction rate market collapsed, NIFA converted its auction rate debt to variable rate demand obligations, but Comptroller Weitzman reported in March that these too were troublesome because one of the liquidity providers was not performing well. Given the turbulence in the financial markets, Comptroller Weitzman continued to urge NIFA to analyze the benefit of converting a portion of its \$900 million in variable rate debt to fixed. The Comptroller advised the Committee that NIFA and the administration were reviewing the possibility of converting the \$300 million of NIFA's variable rate debt that was not hedged by swaps to fixed rate debt. This step was taken over the summer.

### ***External Audit and Management Letter***

In January, Mr. Robert Rooney, Firm Director at Deloitte & Touche LLP, provided copies of Deloitte's 2009 Audit Plan. He advised that Deloitte will communicate with the Committee throughout the audit process and would be available to the Committee to respond to questions and discuss any issues. Mr. Rooney and Stephen Kurtz, Manager, presented a flow chart and timeline for completion of the audit. At the July meeting, Mr. Rooney reported that no material weaknesses or deficiencies had been noted and that the audit scope had not been restricted and there were no disagreements with County management. Mr. Rooney also discussed the impact of three new GASB statements (52 – 54) that will take effect in future years and projected that they will have no material effect on the County's financial reporting.

The Committee went into executive session at its January and July meetings to discuss the Report to Management for the Year Ended December 31, 2007. Chairman Wild stated that by consensus of the Committee, a letter would be sent to the County Clerk, offering to facilitate a meeting between the Clerk and the County's outside auditors to resolve certain issues raised in the 2007 Management letter and the Clerk's letters to members of the Committee. At the September meeting, Mr. Rooney advised that Deloitte had not heard from the Clerk regarding the Management letter.

Director of Accounting Kathy Kugler advised that the County ended the fiscal year with a small surplus of \$2.1 million and sales tax receipts fell \$37.7 million short of budget. Ms. Kugler discussed the County's Comprehensive Annual Financial Report (CAFR), which showed that the County's net worth at the close of 2008 was negative \$4.7 billion, due to the recording of the obligation for post-employment benefits pursuant to the implementation of GASB Statement No. 45. The CAFR is posted on the Comptroller's web site.

### ***Solicitation of the Contract for Outside Auditor***

The County's current contract with Deloitte & Touche ended with the audit of the 2008 fiscal year. Committee members were involved in discussion of the Request for Proposals ("RFP") process, and member Louis Grassi volunteered his time to help interview the finalists for the contract award.

A draft copy of the RFP was circulated to the Committee in March and was discussed and revised in light of the Committee members' comments. Two Committee members noted potential conflicts should the firms from whom they receive benefits respond to the RFP, and advised that in that case they would recuse themselves from the discussions. At the September meeting, the Comptroller's Office reported that five firms responded to the RFP and three were invited to present their proposals to the selection committee, which included Mr. Grassi as observer. The selection committee unanimously recommended that Deloitte & Touche be hired. The contract would be drafted and submitted to the Legislature for approval by the Rules Committee. Because Mr. Grassi was absent from the September meeting, the Committee adopted a resolution stating: "Subject to Lou Grassi's approval, it is the Committee's understanding that he participated in and endorsed the Selection Committee's decision to hire Deloitte & Touche."

### ***Audit Plan***

The Committee monitored the progress of the Comptroller's Office's 2009 audit plan. The plan included audits of the Treasurer's Office, the College, the Carlton Restaurant and financial audits of two special districts.

### ***Special Report***

A draft of the Nassau County *2008 Financial Condition Report* was reviewed. This was the second time Comptroller Weitzman had issued a report that was more accessible to the public than the County's Comprehensive Annual Financial Report (CAFR). The CAFR is an award-winning report garnering annual Certificates of Achievement for Excellence in financial reporting from the Government Finance Officers Association, but its length and complexity make it difficult for the public to read and understand. The *Financial Condition Report* presents a snapshot of the County's financial condition and provides general information in an easy-to-understand format.

## **EXHIBIT I**

### **OPERATING GUIDELINES FOR THE NASSAU COUNTY INDEPENDENT AUDIT ADVISORY COMMITTEE**

#### **PURPOSE**

The Nassau County Audit Advisory Committee (the “Committee”) assists in monitoring Nassau County (the “County”) finances. The Committee monitors and advises where appropriate the independent audit of the County’s financial statements from the selection of the independent auditor to providing advice on the resolution of audit findings. The Committee examines the appropriateness of the outside audit’s scope; the preparation of the annual financial statements; the audit results; and the assessment of the adequacy of internal controls by both the administration and the auditors. In connection with the independent audit, the Committee performs the following functions:

1. Reviews significant written communications between the County and the independent auditors including the management letter and recommends resolutions for any items requiring follow-up and monitoring;
2. Provides input on the creation of an external audit plan and periodically reviews the plan to provide recommendations for changes in process and procedures; and
3. Meets at least once annually, or more often if necessary, with the County’s independent auditors about significant risks or exposures facing the County and assesses steps the County has taken or proposes to take to minimize such risks and periodically review compliance with the County’s proposed steps.
4. The Committee will, from time to time, evaluate, analyze and recommend action on other matters, activities and issues that might impact the finances of the County.

Similarly, the Committee reviews and comments on the Comptroller’s internal audit plan, audits prepared pursuant to that plan, agency responses and County control directives and procedures and periodically participate in special projects when appropriate.

#### **ANNUAL REPORT**

At the end of each year, the Committee prepares a report summarizing its activities, which generally include a description of:

- a) The Committee’s monitoring of the County’s financial statements, comprehensive annual financial report and outside audit; and
- b) Any other matters considered by the Committee.

The year-end report is transmitted to the Comptroller, the County Executive, and the Presiding Officer and Minority Leader of the County Legislature, and will be made available for review by the public.

## **COMPOSITION OF THE COMMITTEE**

Members of the Committee are appointed by the Comptroller in the following manner, subject to the approval of the Committee:

The Committee is composed of a minimum of seven members:\*

County Executive or designee;

County Comptroller or designee; and

At least five independent members, experienced County community/business/financial leaders selected by the Comptroller, subject to the approval of the Committee, who are independent of the County and local governments. One of the five independent members shall be chosen to serve as committee chairperson and one shall be chosen as vice-chairperson. The chairperson and vice-chairperson shall be elected from among its independent members. The vice-chairperson shall assume the responsibilities of the chairperson when the chairperson is not available.

\* The Committee may conduct its business with fewer members while awaiting the filling of vacancies.

Collectively, the Committee should possess the expertise and experience in accounting, financial reporting and finance needed to understand and monitor the preparation of the County's financial statements and the independent audit of those statements.

## **GOOD STANDING**

A Member shall be considered a Member in Good Standing and eligible to vote on issues presented before the Committee if the Member has attended a minimum of three meetings in a twelve-month period, unless the Member's absence has been approved by the Committee. Members who do not meet the minimum attendance requirement may be removed from the Committee unless good cause for such absences has been accepted by the Committee in its sole discretion.

## **TERMS OF APPOINTMENT**

Service on the Committee is pro-bono. County officials serving on the Committee will not receive compensation in addition to their regular salaries. All administrative expenses shall be borne by the Comptroller's Office. Independent members of the Committee serve staggered terms so as to ensure continuity and stability of the Committee. Term of Service for independent members shall be a three-year term. Independent members may be reappointed at the end of their term for additional terms.

All independent members shall hold their position until successors are chosen, except where an independent member has resigned or has been removed from the Committee.

## **PLACE OF MEETINGS**

All meetings of the Committee shall be held at the Comptroller's Office or any other venue that has been designated from time-to-time.

## **REGULAR MEETINGS**

The Committee shall schedule regular meetings at least quarterly and special meetings as necessary. Notice of all meetings shall be provided at least two days prior to such meeting. Meetings shall not be delayed or rescheduled due to the absence of one or more Committee members so long as at least a quorum of the Committee is present.

## **SPECIAL MEETINGS**

Special meetings of the Committee may be called at any time by the Comptroller and notice of such special meeting shall be given at least one day prior to such meeting.

## **QUORUM**

Unless otherwise provided herein, a simple majority of the independent members then on the Committee shall constitute a quorum in order to conduct official business, except that when the number of independent members constituting the Committee shall be an even number, two-thirds of the independent members shall constitute a quorum. A majority of the independent members present whether or not a quorum is present may adjourn any meeting to another time and place. Each independent member shall be entitled to one vote on each matter submitted to vote before the Committee.

## **RESIGNATION**

Any independent member may resign at any time by giving written notice to the Committee. A resignation is effective upon the date provided for in the notice. If no date is provided for in the written notice, the resignation shall take effect at the next scheduled meeting.

## **REMOVAL**

Any independent member may be removed for "Cause" at a meeting called for that purpose. For purposes of these Guidelines, "For Cause" shall mean: when an independent member has been found by the Committee to have breached the attendance requirement provided for in these Guidelines without being excused by the Committee or any duty arising under these Guidelines or where there was non-disclosure of a material fact(s) that if known, would have presented a conflict of interest for the Member and where the Member should have reasonably known of the conflict.

## **VACANCIES**

A vacancy or vacancies shall be deemed to exist in the event of an independent member's death, resignation or removal, if the authorized number of independent members is increased or if there is a failure to elect or appoint the full number of authorized independent members.

## **SUBCOMMITTEES**

The Committee shall establish subcommittees from time-to-time where it is deemed necessary for conducting its business.

## **ADVISORY ROLE**

The Committee's role is advisory only. It may make such recommendations as it believes appropriate to its role but shall have no authority to act on its recommendations and shall have no authority to take any independent actions with respect to its role, except to make such recommendations.